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FISCAL IMPACT REPORT

ORIGINAL DATE 2/13/07
 LAST UPDATED 2/26/07 HB 918/HJCS

SPONSOR HJC

SHORT TITLE Child Solicitation by Electronic Device SB _____

ANALYST Peery-Galon

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
NA	Unknown	Unknown	Recurring	Other State Funds

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	NA	Unknown	Unknown	Unknown	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From

Public Defenders Department (PDD)
 Public Education Department (PED)
 Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 New Mexico Corrections Department (NMCD)
 Children, Youth and Families Department (CYFD)

No Response Received From

New Mexico Sentencing Commission

SUMMARY

Synopsis of HJC Substitute

The House Judiciary Committee Substitute for House Bill 918 amends Section 29-11A-5 NMSA 1978 to include child solicitation by electronic communication device to the list of offenses that the Department of Public Safety shall retain information regarding sex offenses on the sex offender registry. The substitute for House Bill 918 amends Section 30-37-3.2 NMSA 1978 to

make it illegal to use an electronic communication device for child solicitation. An “electronic communication device” is defined as a computer, video recorder, digital camera, fax machine, telephone, cellular telephone, pager, audio equipment or any other device that can produce an electronically generated image, message or signal. The substitution for House Bill 918 amends Section 30-37-3.2 NMSA 1978 clarifying that whoever commits child solicitation by electronic communication device is guilty of fourth degree felony if the child is at least thirteen but under sixteen years of age, or third degree felony if the child is under thirteen years of age. Whoever commits child solicitation by electronic communication device and also appears for, attends or is present at a meeting that the person arranged pursuant to the solicitation is guilty of a third degree felony if the child is at least thirteen but under sixteen years of age, or second degree felony if the child is under thirteen years of age. Also, the substitute for House Bill 918 amends Section 31-21-10.1 to add child solicitation by electronic device to the list of sex offenses to which longer and more stringent parole terms apply.

FISCAL IMPLICATIONS

AOC states any fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecution.

NMCD states that the enactment of the proposed legislation will result in a minimal increase to the department’s prison population and probation/parole caseloads. The annual cost of incarcerating an inmate is \$23,867 per year for males and \$21,651 per year for females. The cost per client in probation and parole for a standard supervision program is \$1,467 per year, for an intensive supervision program is \$3,383 per year, for a NMCD community corrections program is \$3,503 per year, for a privately-owned community corrections program is \$7,917 per year, and for male and female residential community corrections program is \$39,401 per year.

NMCD reports the proposed legislation expands sex offenses, and a person placed on probation or parole after being convicted of a sex offense will be subject to five to 20 years of probation or parole. The convicted sex offender will be required to pay probation or parole supervision fees to the Corrections Department. NMCD states this increase in revenue may somewhat offset the costs associate with any increases in the prison population. Statute requires that supervision fees be placed into the Intensive Supervision Fund, and money in the fund can only be used for offenders placed in an intensive supervision program.

SIGNIFICANT ISSUES

Currently, statute states it is illegal to use a computer to solicit a child under sixteen to engage in sexual intercourse, sexual contact or in a sexual or obscene performance, or to engage in other sexual conduct when the perpetrator is at least three years older than the child.

CYFD states if the proposed legislation is enacted, it would expand the crime of child solicitation to include the use of various electronic devices in addition to computers. CYFD notes expansion of law appears reasonable in that it recognizes the proliferation of electronic devices that can be used to communicate and to solicit children.

ADMINISTRATIVE IMPLICATIONS

PDD states the proposed legislation may increase litigation and create a need for additional staff.

AOC reports the proposed legislation could result in increased caseloads, requiring additional resources.

NMCD will need to revise the written notification regarding the sex offender's duty to register as a sex offender with the county sheriff in the county where the sex offender will reside. This written notification is given to sex offenders who are discharged from prison or placed on probation or parole.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

AODA notes that there may be a conflict due to the proposed legislation adding child solicitation by electronic device to the list of sex offenses which lead to longer parole terms, but not amending Section 31-20-5.2 NMSA to require longer probation terms for those convicted of child solicitation by electronic device.

The proposed legislation has a relationship to House Bill 663 and Senate Bill 735, which deal with child solicitation by electronic device with a violent felony enhanced punishment provision..

RPG/mt